

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**CRIMINAL ACTION NO.: 3:19-CR-29  
(GROH)**

**MICHAEL KENNEDY,**

Defendant.

**ORDER OF PRETRIAL CONFERENCE**

On October 3, 2019, the parties in the above-styled criminal case appeared before the Court for a pretrial conference. Defendant Kennedy was present in person and by counsel, B. Craig Manford and Garry G. Geffert. The Government was represented by Jarod J. Douglas and Christine M. Siscaretti.

First, the Court heard argument on the Defendant's unopposed Motion for Bench Trial. The Court found the Defendant made a knowing, voluntary and intelligent waiver of his right to a jury trial, which was accompanied by a written waiver, and the Government consented to a bench trial. The Court granted the motion on the basis that the parties, as well as the Court, continue to have concerns about being able to empanel an impartial jury since this case received widespread press coverage following the release of the video of the charged conduct by the Berkeley County Prosecuting Attorney's Office after the Defendant was indicted in this case. Moreover, both the Defendant and the Government agreed that the Court is in a better position to consider the evidence for and against the Defendant without sympathy, passion or anger in an impartial manner as a jury may be

shocked or tainted after viewing the video evidence in the case.

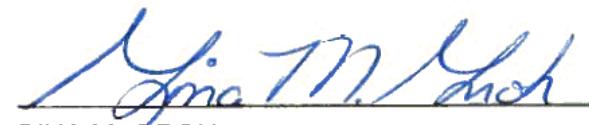
The Court also heard argument on the Government's Motion in Limine. Because defense counsel stated he does not intend to introduce evidence of a pending civil lawsuit, a subsequent drug arrest of the alleged juvenile victim or the Defendant's good character, the Court granted the Government's motion as it pertained to these matters. Regarding evidence from related internal investigations, the Court granted the motion in part. The evidence is only to be used for impeachment purposes of a witness testifying inconsistently at trial with statements he or she made as part of the internal investigation. Regarding the evidence of the juvenile's drug activity and drug test results, the Court granted the motion in part. The Court found the evidence was irrelevant to the issues at trial, but reserved ruling on whether the evidence could be used for impeachment purposes.

While not discussed upon the record at pretrial, in the interest of judicial economy the Court is providing the parties with the opportunity to submit written closing arguments of findings of fact and conclusions of law. The parties are hereby **ORDERED** to file closing arguments within one week of the conclusion of trial. In addition, the parties may make opening statements and closing arguments at trial if they desire.

The bench trial will commence as scheduled on **October 7, 2019, at 9:00 a.m. in the Martinsburg District Judge Courtroom.**

The Clerk is **DIRECTED** to transmit copies of this Order to all counsel of record herein and the United States Marshals Service.

**DATED:** October 3, 2019



GINA M. GROH  
CHIEF UNITED STATES DISTRICT JUDGE